

1 pretty much asked and answered. We have gone over
2 this diagram. Starkey prepared it; Phipps prepared
3 this one.

4 EXAMINER WOODS: What was the question, I'm
5 sorry?

6 MS. HIGHTMAN: The question I asked was, he
7 just agreed with me that the facility, his A, could
8 be comprised of two different facilities, a transport
9 facility and a local distribution channel to go
10 through a central office, and I am asking is that
11 actually what's depicted by Mr. Starkey, that portion
12 of Mr. Starkey's diagram that I referenced.

13 MR. HARVEY: And my objection was what was
14 depicted by Mr. Starkey was drafted by Mr. Starkey.
15 He can probably testify to what he thinks Mr. Starkey
16 is depicting but he can not do more than that.

17 EXAMINER WOODS: Again, Mr. Phipps never had
18 a chance to respond to Mr. Starkey's diagram, right?

19 MS. HIGHTMAN: Which is why I am asking,
20 right. That's what I want to understand.

21 EXAMINER WOODS: And what does that go to?
22 What in his testimony does that go to?

1 MS. HIGHTMAN: His ultimate conclusion that
2 we simply have loops and not the kind of transport
3 that the FCC has stated is necessary or is a way to
4 qualify for the tandem rate.

5 EXAMINER WOODS: So is what we are trying to
6 get at here, whether or not we are going to be
7 talking back and forth between the two diagrams,
8 whether or not the line that's labeled A in
9 Mr. Phipps' Attachment 1 is in his mind the same
10 thing as the line that goes from E to Focal's ISP in
11 Mr. Starkey's diagram and in his mind?

12 MS. HIGHTMAN: It's also the line that goes
13 from the Focal DMS-500 to the CO and to the loop, I
14 mean to the ISP.

15 EXAMINER WOODS: So whether in his mind
16 those are the same facilities?

17 MS. HIGHTMAN: As he just described to me.

18 EXAMINER WOODS: Okay. I don't think that's
19 really asked him what Mr. Starkey did. And I think
20 it's appropriate to inquire so we can get an idea of
21 how these two diagrams line up.

22 MS. HIGHTMAN: Right, I think it's helpful

1 to the record.

2 MR. FRIEDMAN: I'm sorry to interrupt.

3 EXAMINER WOODS: You are going to object to
4 my question?

5 MR. FRIEDMAN: I wouldn't think about it.

6 EXAMINER WOODS: Not at this time of the
7 day. I think some limited inquiry as to what
8 Mr. Phipps' believes are the similarities and
9 dissimilarities in the two diagrams is appropriate.
10 I don't think it's appropriate to ask him what
11 Mr. Starkey did, which I understood was your
12 question.

13 MS. HIGHTMAN: I didn't mean to if I did.
14 But just so it's clear, it's Focal's position that
15 the combination of the transport, the loop and the
16 MUXing or whatever else occurs in the central office
17 is enough to qualify under the FCC test.

18 EXAMINER WOODS: I think some limited
19 inquiry as to the way Mr. Phipps' believes the two
20 diagrams go together is appropriate, but I think you
21 just need to be careful how we ask the questions.

22

1 MS. HIGHTMAN:

2 Q. Do you have any recollection of what I
3 asked you?

4 A. Not particularly, no.

5 Q. I think what I asked -- your previous
6 answer to me before we had the objection was that you
7 agreed, I believe, that your line A, the Facility A
8 on your attachment, could actually be comprised of
9 two facilities, a transport facility and a local
10 distribution channel, and that it could also travel
11 through an Ameritech central office; do you recall me
12 asking that?

13 A. Well, if we assume that the shaded oval
14 here is the Focal ISP and there is a piece between
15 there, that's not what I was -- that's not what I
16 meant by A.

17 Q. That could be A, though, right?

18 A. It could if we make the assumptions that
19 there is more pieces to the diagram, I guess.

20 Q. There could be more pieces. Yours is a
21 more simple version of the arrangements that Focal
22 has in place, would that be correct to say?

1 A. I wasn't aware of some of the
2 arrangements until supplemental was filed.

3 Q. And that's what I am really trying to
4 get at here and maybe this will get us to the point.
5 What we just went through with the questions
6 regarding what A could be is actually what is
7 pictured on the portion of Mr. Starkey's diagram that
8 relates to the Ameritech CO-E, right?

9 EXAMINER WOODS: If he knows.

10 MS. HIGHTMAN:

11 Q. I am asking, yes.

12 A. Well, I mean, I guess you could make A,
13 B, any one of those combinations if you add
14 components to it.

15 Q. And, in fact, that's what I really want
16 to get at here is that you, because you didn't know
17 the specifics about Focal's network, your Attachment
18 1 is a simplified version of the manner in which
19 Focal has deployed facilities on its network; is that
20 a correct characterization or a correct statement?

21 A. The purpose of my diagram is to show how
22 Focal routed ISP traffic.

1 Q. But this doesn't show all ways in which
2 Focal routes ISP traffic, isn't that correct?

3 A. Not according to Mr. Starkey's diagram.

4 Q. Because, in fact, Mr. Starkey describes
5 three different methods by which Focal serves its end
6 user ISPs, right?

7 A. I believe he discusses three methods,
8 yes.

9 Q. And you are not sitting here saying you
10 disagree factually with whether these arrangements
11 are in place, right?

12 A. I have no reason to doubt his
13 statements.

14 Q. Is it correct that you believe that
15 Focal's switch operates more like an end office when
16 it comes to traffic delivered to collocated ISPs
17 because a switch does not aggregate and disburse the
18 traffic? Is that a correct statement of your
19 position? Do you want me to say it again?

20 A. No, that's fine. I believe that when
21 Focal's switch routes traffic to an ISP, a collocated
22 ISP customer, that there is no technology, new

1 technology as discussed by the FCC in 1090.

2 Q. I don't think you answered my question
3 but maybe we should get something clear here first.
4 When I keep asking you questions, you keep on talking
5 about an ISP that's collocated.

6 A. I thought that was what the question
7 was. If you could read that back?

8 Q. I'm sorry, you are right. But, in fact,
9 just so the record is clear, I don't want to say how
10 many of Focal's ISP customers are collocated but they
11 are not all collocated.

12 A. That's fine, I understand.

13 Q. But with regard to my question, you are
14 right, I did refer to collocated ISPs. And just let
15 me ask you again because I don't think you answered
16 the question, isn't it correct that it's your
17 position that Focal's switch operates more like an
18 end office switch when it comes to traffic delivered
19 to collocated ISP's because Focal's switch does not
20 aggregate and disburse the traffic? Is that a
21 correct statement of your position?

22 A. I wouldn't agree with that in totality,

1 no.

2 Q. Is it your position that Focal's switch
3 operates like an end office switch?

4 A. When routing ISP traffic.

5 Q. All ISP traffic or just collocated?

6 A. I would say all.

7 Q. With regard to the aggregation function,
8 isn't it correct that the aggregation function occurs
9 on the network side of Focal's switch?

10 MR. HARVEY: I will object to that, just if
11 he knows, maybe. But I don't think there is any real
12 basis of -- there is certainly no foundation for his
13 knowledge of how this works.

14 EXAMINER WOODS: He can answer if he knows.

15 THE WITNESS: Could you repeat the question?
16 I don't mean to be difficult.

17 MS. HIGHTMAN:

18 Q. Would you agree that on Focal's network
19 as depicted on Mr. Starkey's diagram the aggregation
20 function occurs on the network side of the switch
21 which is the left side of the diagram?

22 A. Well, I mean when you say left side of

1 the diagram, do you mean the bottom portion of the
2 diagram when you refer to network side?

3 Q. Actually, let me rephrase that. Let me
4 just ask you, would you agree that aggregation on
5 Focal's network occurs on the network side of the
6 switch?

7 A. I really don't know what you mean by
8 network side of the switch. I mean, you could have
9 network on both sides of the switch, I guess is what
10 I mean.

11 Q. And in that case isn't the traffic being
12 routed from trunk to trunk as opposed to trunk to
13 line?

14 A. In what instance?

15 Q. What's your understanding of what
16 aggregation means?

17 A. I guess in a general sense aggregation
18 in my mind would mean to collect traffic.

19 Q. And, in fact, isn't the traffic from
20 Focal's multiple points of interconnection on
21 Ameritech's network aggregated and then brought to
22 Ameritech's -- I mean Focal's two switches?

1 A. I believe that the transport facilities
2 transports that traffic to the switch.

3 Q. And those transport facilities are
4 Focal's transport facilities from its POIs to its
5 switches, isn't that true?

6 A. Not in all instances. On this diagram
7 that would be the case.

8 Q. In what instances to your knowledge is
9 the transport from Focal's POIs to its switches not
10 done through its transport facilities?

11 A. What I meant by my last statement was,
12 according to what I heard Mr. Barnicle say yesterday,
13 that Ameritech in approximately 50 percent of the
14 instances would take its transport to the Focal
15 switch.

16 Q. And that?

17 A. In that instance the point of
18 interconnection would be at the Focal switch.

19 Q. Are you -- I don't want to ask you
20 something you don't know. Is it correct to state
21 that, first of all, your knowledge as to what
22 transport facilities are deployed was based on what

1 you have heard sitting here in the past two days
2 other than this prefiled testimony?

3 A. Well, I think transport in general or
4 transport specific to this case?

5 Q. To Focal, yeah.

6 A. My knowledge of transport specific to
7 Focal is the documents that have been filed in this
8 case as well as the testimony that's been submitted
9 in the last two days.

10 MS. HIGHTMAN: Can I have two minutes?

11 EXAMINER WOODS: Okay.

12 MS. HIGHTMAN:

13 Q. I want to follow up on a couple of -- on
14 the last answer you gave me. I believe you indicated
15 that you made reference to Mr. Barnicle's testimony
16 regarding 50 percent of facilities being deployed by
17 Ameritech versus the other 50 percent being Focal, do
18 you recall?

19 A. I believe what I said was that my
20 understanding of Mr. Barnicle's testimony yesterday
21 was that in approximately 50 percent of the instances
22 that Ameritech would take its transport facilities to

1 Focal's switch.

2 Q. In that case, and if you know this,
3 isn't what you just described depicted on
4 Mr. Starkey's diagram where, for example, if we look
5 at the Ameritech tandem in the middle of the diagram,
6 there is a solid line and as the key notes the solid
7 lines denotes Ameritech transport facilities, the
8 Ameritech transport facilities goes from the
9 Ameritech tandem up to the Focal DMS-500, right?

10 A. That's what the diagram shows, yes.

11 Q. And is that what you are referring to is
12 the Ameritech transport facility such as this one?

13 A. Well, I am generally referring to
14 transport facilities. I am not qualifying that. I
15 am just going on what my understanding of
16 Mr. Barnicle's statement was. I don't believe he
17 qualified that in that extent.

18 Q. Right. But to the extent that any
19 transport facilities are relevant here, it would be
20 transport facilities somewhere between Focal's POIs
21 and its switch, right? That's all that's at issue
22 here?

1 A. I think what's at issue is Ameritech's
2 transport between its end offices and Focal's switch.

3 Q. An example of that is this one that I
4 just pointed out to you, is that right?

5 A. That's an example.

6 Q. With regard to that particular facility,
7 is it your belief that Focal is seeking to recover
8 the cost of the transport provided over that
9 Ameritech facility through reciprocal compensation?

10 A. I don't know that.

11 Q. They are not seeking to recover that,
12 are they?

13 A. I don't know.

14 Q. In the event of the traffic being
15 carried over the Ameritech transport facility that we
16 are looking at here as an example, wouldn't you agree
17 that once the traffic gets to the Focal DMS-500
18 switch, it would have to be MUXed? For example, to
19 get it to the ISP that's collocated, if you know?

20 A. I don't believe I know.

21 Q. And once the traffic is carried on the
22 Ameritech transport facility and it reaches the Focal

1 switch, isn't it true that Focal provides some
2 transport, albeit short, to get it into the switch,
3 if you know?

4 A. I do not know where the point of
5 interconnection would be within that switch. I just
6 know that generally at the point of interconnection
7 that example would be a Focal switch.

8 Q. So you are not aware of whether there is
9 any MUXing that occurs or whether there is any
10 specific transport that would occur were the call
11 delivered to Focal's DMS-500's switch over
12 Ameritech's transport facilities, is that a correct
13 understanding of your testimony?

14 A. I believe that's a fair
15 characterization, yes.

16 Q. I want to ask you some questions
17 regarding the actual rate that you calculated. And,
18 actually, my question relates to a response to a data
19 request I asked you, and I don't need to put the data
20 request in the record, but my question relates to the
21 costs you used to come up with your proposal, your
22 intercarrier compensation proposal.

1 A. Yes.

2 Q. Isn't it correct that you rely upon
3 Ameritech's response to Focal's Data Request Item 54
4 to derive your proposed rate for intercarrier
5 compensation for ISP-bound calls?

6 A. Yes. Now, when Ameritech responded,
7 they put 54 through 58 on the same page but, yes,
8 those are the numbers I relied on to develop that
9 number.

10 Q. They provided one set of costs for all
11 the data requests?

12 A. Exactly, yes.

13 Q. And two numbers that you use
14 specifically from those data request responses for
15 the particular response were the setup and duration
16 costs, isn't that right?

17 A. Yes, specifically.

18 Q. Don't say the number; it's confidential.

19 A. I was just going to say where they are
20 located. In the first column, the first two numbers
21 in that column.

22 Q. Now, is there some question in your mind

1 as to whether those two numbers include shared and
2 common costs?

3 A. Well, just for clarification, Ameritech
4 labeled the column Setup and Duration TELRIC Costs,
5 and that would suggest that shared and common would
6 not be included. But if you adjust the setup call or
7 setup per call number as Ameritech does when
8 converting that to a permanent number and you add
9 that to the duration per minute, you arrive at the
10 tariffed reciprocal compensation rate which would
11 include shared and common costs. So in summary that
12 leads me to believe that, even though they labeled
13 the column as TELRIC Costs, they do include shared
14 and common.

15 Q. Would it be correct to state that we
16 don't know exactly how Ameritech arrived at their
17 setup and duration costs that were included in the
18 data request response that you relied upon?

19 A. I'm not personally aware of how they
20 arrived at those numbers, no.

21 Q. So you don't know how that shared and
22 common costs were applied to the particular costs

1 that you looked at, right?

2 A. No.

3 Q. Is it possible then that Ameritech could
4 have applied the entirety of the shared and common
5 costs markup to only the setup cost element?

6 A. I guess it's possible.

7 Q. And based on what you told me as to how
8 you had calculated it to determine that in fact
9 shared and common costs were included, you couldn't
10 determine from how you did that whether in fact
11 Ameritech applied it to only the setup element,
12 right?

13 A. I don't believe that could be determined
14 by that calculation, no.

15 Q. Now, if Ameritech had applied the
16 entirety of the shared and common costs markup to
17 only the setup cost element, wouldn't that lower the
18 per minute rate that is produced by your calculation
19 compared to a proper spreading of those shared and
20 common costs across both the setup and duration
21 elements?

22 A. I really haven't done any such analysis,

1 and this is the first time I have heard that that
2 could be a possibility. So I don't really know that,
3 that answer.

4 Q. But wouldn't that be definitional when
5 you look at what setup costs are and what the
6 other --

7 A. I guess it would be possible, yes.

8 MS. HIGHTMAN: I have no further questions
9 for now.

10 CROSS EXAMINATION

11 BY MR. FRIEDMAN:

12 Q. I am Dennis Friedman, Mr. Phipps. How
13 are you?

14 A. Good afternoon.

15 Q. I think there has been testimony that in
16 both your written statement and your testimony you
17 may have referred to the termination of traffic to
18 ISPs. Am I correct in my belief that, by using that
19 word, you did not intend to be expressing an opinion
20 one way or the other on whether traffic terminates at
21 an ISP when it gets there?

22 A. I think you would be correct.

1 Q. You talked quite a bit with Ms. Hightman
2 about how one would go about calculating an
3 intercarrier compensation rate for ISP traffic, but
4 you do understand, don't you, that we do have a
5 serious question in this case before we get to that,
6 namely whether the parties should be compensating
7 each other at all for delivering such traffic, don't
8 you?

9 MS. HIGHTMAN: I object to the question
10 form. I don't think the parties have a serious
11 question. There is a legal issue.

12 EXAMINER WOODS: Rephrase.

13 MS. HIGHTMAN: And I think he has discussed
14 it in his testimony.

15 EXAMINER WOODS: In the interest of
16 even-handedness I would like you to rephrase.

17 MR. FRIEDMAN:

18 Q. I would be glad to. You understand, do
19 you not, Mr. Phipps, that before we get to the
20 question that you discussed at length with Ms.
21 Hightman about how one would go about calculating a
22 rate for intercarrier compensation for ISP traffic,

1 the Commission in this case first needs to deal with
2 the question whether the parties should compensate
3 each other at all for delivering such traffic?

4 A. Well, based on the parties' positions in
5 this case, I think that's a determination that needs
6 to be made.

7 Q. And you say on page 14 of your statement
8 that Focal contends that Ameritech should be
9 responsible for compensating Focal for routing ISP
10 traffic because the traffic originates on Ameritech's
11 network in the same way as a local call does,
12 correct?

13 A. I think that would be a fair
14 characterization.

15 Q. And you know that Ameritech contends
16 that the costs that both carriers incur for carrying
17 this traffic are caused by the contractual
18 relationship that the ISP has induced between itself
19 and its customer, the end user, do you understand
20 that?

21 A. That's my understanding of Ameritech's
22 position.

1 Q. And you further understand Ameritech's
2 position to be that, therefore, Ameritech should not
3 be required to compensate Focal for costs incurred on
4 its part of the network for delivering this traffic
5 that we are talking about to Focal's ISP customers?

6 A. Are you asking me if that's my
7 understanding?

8 Q. Is that your understanding of
9 Ameritech's position?

10 A. I think that's my understanding of
11 Ameritech's position.

12 Q. In your testimony you disagree with
13 Ameritech on this point, correct?

14 A. I do.

15 Q. And the basis of your disagreement is
16 expressed, I think, again on page 14 where you say --
17 and I will ask if this is a fair paraphrase -- that
18 if Ameritech's logic is correct, it would lead to the
19 conclusion that a pizza parlor, which like an ISP
20 receives more traffic than it originates, would need
21 to bear the costs of the calls that it receives.
22 That's your express basis for disagreeing with

1 Ameritech's position as expressed in the testimony,
2 isn't it?

3 A. Well, I think my example there was more
4 applied to whether inbound versus outbound traffic
5 played a role in determining who should compensate
6 for costs.

7 Q. Let's test, if we could, your pizza
8 parlor illustration.

9 A. Okay.

10 Q. Let's start with an assumption that my
11 sister is a subscriber of AOL and pays AOL 29.95 a
12 month for dialup connection to the internet from her
13 PC at home. Now, if my sister is at home right now
14 and she wants to connect with the internet and she
15 has that arrangement with AOL, what does she have to
16 do?

17 A. In order to access the internet, do you
18 mean?

19 Q. In order to establish this connection
20 with the internet. My sister is at home, she is an
21 AOL customer, she's got a PC, pays AOL 29.95 for a
22 dialup connection to the internet, she wants to hook

1 up with the internet. What does she do?

2 A. She accesses a dialup network.

3 Q. How does she do that?

4 A. Log onto the computer. I think that the
5 traffic would, similar to what's been explained in
6 the past, would be routed out through Ameritech's
7 network, ultimately arrive at Focal's network which
8 is what would be used to route that traffic to the
9 public switched network.

10 Q. Now, does my sister with this
11 arrangement with AOL have any other way of
12 establishing her AOL connection?

13 A. I don't believe so, not an AOL
14 connection, no.

15 Q. Let's say, for example, that she wanted
16 to establish that connection a different way for
17 whatever reason so she shouted next door to the
18 neighbor and said, hey, could you call the AOL
19 business office and tell them that their customer,
20 me, wants to be connected now so please establish the
21 connection?

22 A. I don't think that's possible.

1 Q. And if she tried it and the neighbor
2 called the AOL office and made that request, would it
3 be reasonable to imagine that the person at the
4 business office would say, hey, just have her dial
5 the number?

6 A. I guess that would be a reasonable
7 outcome.

8 Q. So part and parcel, wouldn't you agree
9 that part and parcel of my sister's service
10 arrangement with AOL is this arrangement where my
11 sister has to use the local network to establish her
12 connection to the internet? No other way for her to
13 do it, given the deal that she's made with AOL?

14 A. Given that, yeah, I would agree with
15 that.

16 Q. And do you understand that that is why
17 Doctor Harris says that the costs that the local
18 network incurs when my sister establishes the
19 connection are caused by the contractual relationship
20 between my sister and AOL?

21 A. I believe that to be the basis for
22 Mr. Harris' position, yes.

1 Q. And you understand that that's why
2 Doctor Harris as an economist says that it would be
3 for AOL, having decided to go into the business where
4 it provides this kind of service to my sister which
5 pays them this monthly rate so that she can have this
6 service which she can get only by using a public
7 switched network, why AOL having made that choice
8 should bear the costs that my sister imposes on the
9 network?

10 A. Well, I believe that that's part of
11 Mr. Harris' position, yes.

12 Q. Now, let's compare that scenario with
13 the pizza parlor scenario. Let's say my sister gets
14 a hankering for a pizza, she's at home, and she wants
15 to call Little Caesar's to order a medium sausage and
16 onion combination and she is going to go pick it up
17 at Little Caesar's. So that's what she wants. I
18 think I misspoke because I think, as I put it, I had
19 her calling them. Let's say she wants the pizza and
20 she wants it from Little Caesar's. She may choose to
21 call Little Caesar's, right, and order a pizza?

22 A. She could.

1 Q. Does she have alternatives?

2 MR. HARVEY: I will have to object unless
3 you are going to clarify what we are talking about in
4 terms of alternatives.

5 MR. FRIEDMAN

6 Q. Does my sister have any other way of
7 letting Little Caesar's know that she wants this
8 pizza besides picking up the phone and calling? For
9 example, could she shout over to the next door
10 neighbor and say, hey, would you call Little Caesar's
11 and order me a sausage and onion pizza?

12 A. That would be a possibility.

13 Q. And that would be fine with Little
14 Caesar's, right?

15 A. I guess so.

16 Q. It would be fine with Little Caesar's if
17 she communicated her needs by carrier pigeon, would
18 it not?

19 A. I guess that would be a possibility as
20 well.

21 Q. So Little Caesar's then, unlike an ISP,
22 does not offer a service, a contractual relationship,

1 to my sister that she can avail herself of, and part
2 and parcel of which is calling them, right?

3 A. Could you repeat that question, I'm
4 sorry?

5 Q. Okay. Little Caesar's then, unlike AOL,
6 does not enter into contractual relationships with
7 its customers whereby the customers, in order to get
8 the service that Little Caesar's is selling, have to
9 call Little Caesar's?

10 A. I don't believe there is a contractual
11 relationship between Little Caesar's and its
12 customers.

13 Q. Do you know of any pizza parlor that
14 offers such an arrangement?

15 A. I'm not personally aware of any, no.

16 MR. FRIEDMAN: I have very few more
17 questions. May I just take a couple of minutes to
18 consult?

19 EXAMINER WOODS: That's fine.

20 (Whereupon Phipps Cross
21 Exhibits 1, 2 and 3 were
22 marked for purposes of

1 identification as of this
2 date.)

3 MR. FRIEDMAN: Ameritech Illinois moves into
4 the record as Phipps Cross Exhibits 1, 2 and 3
5 respectively the responses of Staff to Focal Data
6 Requests 13, 14 and 15.

7 EXAMINER WOODS: Any objection?

8 MS. HIGHTMAN: No.

9 EXAMINER WOODS: Entered without objection.

10 (Whereupon Phipps Cross
11 Exhibits 1, 3 and 3 were
12 admitted into evidence.)

13 MR. FRIEDMAN:

14 Q. Finally, Mr. Phipps, just a couple of
15 questions about shared and common costs. Do you know
16 of any legitimate reason why Ameritech would have or
17 might have stuck all the shared and common costs on
18 setup and not on duration?

19 A. I have no reason why they would do that,
20 no.

21 Q. Do you have any reason at all to think
22 that they did do that?

1 MS. HIGHTMAN: I object, asked and answered.

2 EXAMINER WOODS: I think the answer was he
3 had no idea why they would do that and now the
4 question is does he have any reason to believe that
5 they did do that. Do you have any reason to believe
6 that they did do that?

7 THE WITNESS: I have no reason to believe
8 that they did or didn't do that.

9 MR. FRIEDMAN: No further questions. Thank
10 you.

11 MR. HARVEY: Short redirect.

12 EXAMINER SHOWTIS: Wait, we might have a
13 couple.

14 EXAMINATION

15 BY EXAMINER WOODS:

16 Q. Okay, Mr. Phipps, based on all the cross
17 that you went through we are just kind of unclear
18 right now as to what your final position is. Based
19 upon your review of Mr. Starkey's diagram that you
20 discussed with Ms. Hightman has your position now on
21 recovery of the tandem switching rate changed at all
22 from the position you took when filing your

1 testimony?

2 A. What I set forth in my testimony is
3 still my position, yes.

4 Q. And that is your final answer?

5 A. Yes. I just wish that was for a million
6 dollars.

7 EXAMINATION

8 BY EXAMINER SHOWTIS:

9 Q. I just had a question on another line.
10 On page 21 of your verified statement.

11 A. Yes.

12 Q. And, specifically, with regard to the
13 question on line 411 and your answer that follows
14 there, you indicate that to implement your
15 recommended rate, it would be necessary to identify
16 and measure ISP-bound traffic, is that correct?

17 A. I think to accurately implement my
18 recommended rate. I mean, I guess the parties could
19 agree on some sort of percentage, but to accurately
20 implement it, I think that it would be necessary to
21 identify and measure ISP-bound traffic.

22 Q. And I believe Focal witness Barnicle

1 addressed whether it is possible to separately
2 identify internet traffic, is that correct? And
3 that's on page 7 of his supplemental verified
4 statement.

5 A. Supplemental, I have his supplemental, I
6 believe. Actually, I don't; I don't have that. Page
7 7? I'm sorry.

8 Q. Yeah. I guess my first question is did
9 you have an opportunity to read his testimony,
10 particularly his answer to Question 10 on line 4 of
11 page 7?

12 A. I have read it, yes.

13 Q. After reading his answer to that
14 question do you believe it is possible to identify
15 and measure ISP traffic so that the adjusted end
16 office rate recommended by you could be applied to
17 the ISP traffic?

18 A. Based on his answer it appears that -- I
19 would say the reason that he believes it's not
20 possible is because Focal does not require its
21 customers to state the purpose for using its service.
22 I believe that with cooperation from Focal that they

1 could identify those lines and qualify those lines
2 and they could be measured, yes, with the caveat that
3 it might take some cooperation from its ISP customers
4 as well.

5 Q. Do you agree with Mr. Barnicle's
6 testimony that -- and this is on lines 18 and 19 on
7 page 7 -- that any attempt to aggregate
8 internet-bound traffic can be nothing more than a
9 rough estimate?

10 A. Well, I think as I state in my verified
11 statement, that at the beginning of -- I guess if my
12 plan was implemented there might be a learning curve
13 as those lines are qualified. But I believe if the
14 two parties cooperate, that it could be relatively
15 accurate, yes.

16 EXAMINER SHOWTIS: That's all I have.

17 MR. HARVEY: I have very little redirect
18 here.

19 REDIRECT EXAMINATION

20 BY MR. HARVEY:

21 Q. Now, Mr. Phipps, Ms. Hightman asked you
22 a number of questions about Focal's costs of

1 providing service and, specifically, Focal's costs of
2 providing service for calls which had been initiated
3 on the Ameritech network.

4 A. Yes.

5 Q. Has Focal provided any studies that
6 would tend to indicate what its costs were in the
7 course of this proceeding?

8 A. No.

9 Q. So to the extent that you relied on
10 costs, you -- to the extent that you relied on a cost
11 study to derive your reciprocal compensation number,
12 you were obliged to rely upon Ameritech's cost study?

13 A. Yes, I did.

14 Q. Now, in response to a question that
15 Ms. Hightman asked you regarding whether Focal would
16 qualify for the tandem rate under Section 1090 of the
17 First Report and Order for its fiber optic
18 facilities, you gave the opinion that you didn't
19 think they would qualify; was that -- did I mishear
20 that?

21 A. No, I believe that would be my opinion.

22 Q. But that was for internet service

1 provider traffic only, was it not?

2 A. All of my testimony deals specifically
3 with internet service provider traffic, yes.

4 Q. Fair enough. And, finally, I think that
5 we need to just discuss, and I hesitate to do this to
6 the good lady, Mr. Friedman's sister, the pizza
7 orderer. Now, let us assume for sake of argument
8 that Mr. Friedman's sister has interests other than
9 pizza, which I have no doubt to be the case. And
10 she, for example, has a contractual arrangement with,
11 dare I say it, Dionne Warwick. And she calls -- she
12 subscribes to Ms. Warwick's psychic projections and
13 the way you do that is calling in to local numbers to
14 get your psychic information for the day. Would that
15 be another example of traffic consistent with your
16 pizza analogy?

17 A. Yes.

18 MR. HARVEY: All I got. Sorry, I didn't
19 mean to imply that your sister was psychic.

20 MR. FRIEDMAN: I don't believe that you did
21 imply that she was psychic. I actually have a couple
22 of questions but I suppose it's your turn.

1 MS. HIGHTMAN: I wouldn't touch it.

2 RECROSS EXAMINATION

3 MR. FRIEDMAN:

4 Q. Just following up on Mr. Harvey's
5 questions about why you relied on Ameritech's cost
6 studies rather than any cost information provided by
7 Focal. Do you recall whether either Staff or
8 Ameritech asked Focal to provide any cost information
9 relating to their costs of routing ISP traffic?

10 MS. HIGHTMAN: I object to the question.
11 Whether they asked for it or not, there is no cost
12 information in the record prepared by Focal with
13 Focal's specific costs, and this is beyond the scope
14 now. Yes, there was a question about Focal's cost
15 study but this goes beyond that, asking about whether
16 anyone asked Focal for cost information.

17 MR. FRIEDMAN: I think what I am driving at
18 underscores the import of testimony elicited by
19 Mr. Harvey. I think that's perfectly permissible on
20 recross.

21 MS. HIGHTMAN: I don't think underscoring is
22 permissible.

1 EXAMINER WOODS: Where are we going with it?

2 MS. HIGHTMAN: He is underscoring.

3 EXAMINER WOODS: Underscoring is always
4 permissible on Thursdays. Go ahead.

5 MR. FRIEDMAN:

6 Q. Do you remember the question?

7 A. I think I do.

8 Q. Do you know the answer?

9 A. I just don't recall, out of all the data
10 requests that were passed around, I don't recall.

11 Q. Still on the subject of the costs, there
12 was a reference earlier to your ideal reciprocal
13 compensation model.

14 MS. HIGHTMAN: I object. That was in my
15 cross. That's beyond the scope of this.

16 MR. HARVEY: I object, too. That is beyond
17 the scope of my fairly narrow redirect.

18 EXAMINER WOODS: Three to one always wins.

19 MS. HIGHTMAN: What if he is underscoring,
20 though? No, he's not.

21 MR. FRIEDMAN: I am taking that as an
22 objection sustained.

1 EXAMINER WOODS: It is.

2 EXAMINER SHOWTIS: It is. Good inference.

3 EXAMINER WOODS: Anything else?

4 MR. FRIEDMAN: No, I have no further
5 questions, thank you.

6 EXAMINER SHOWTIS: Thank you, Mr. Phipps.

7 EXAMINER WOODS: Off the record.

8 (Whereupon there was then had
9 an off-the-record
10 discussion.)

11 (Whereupon Staff Exhibit 4 was
12 marked for purposes of
13 identification as of this
14 date.)

15 MR. HARVEY: Staff will call at this time
16 Julie M. VanderLaan.

17 EXAMINER WOODS: Have you been sworn?

18 THE WITNESS: Yes.

19

20

21

22

1 J U L I E M. V A N D E R L A A N

2 called as a Witness on behalf of the Staff of the
3 Illinois Commerce Commission, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HARVEY:

7 Q. Ms. VanderLaan, would you state your
8 name please and spell it for the record as one with
9 your business address, I guess.

10 A. Sure. Julie M. VanderLaan,
11 V-A-N-D-E-R-L-A-A-N. My business address is 527 East
12 Capitol Avenue, Springfield, Illinois 62701.

13 Q. Thank you. Now, do you have before you
14 a document consisting of 13 pages of text in question
15 and answer form which bears the title Verified
16 Statement of Julie M. VanderLaan in this docket?

17 A. Yes, I do.

18 Q. Was that document prepared by you or at
19 your direction and supervision?

20 A. Yes.

21 Q. If I were to -- do you have any
22 corrections, additions, redactions or other editorial